

REMARKS

Claims 97, 99, and 105-113 are pending. Claims 112 and 113 are new. No new matter has been introduced by the amendment or the addition of new claims.

The Examiner rejected previously pending claims on the ground of non-statutory obviousness-type double patenting, citing claims of a number of patents. To more particularly claim the invention, which is a method of decreasing neuronal cell death, and to clearly distinguish from the cited claims which do not pertain to neuronal cells, the claims have been amended and new claims 112 and 113 have been added. In particular, claims 97 and 99 have been amended to recite that a morphogen is administered to a subject that is afflicted with a neuropathy or with chemical or physical injury, or at risk of such affliction. Claims 112 and 113 have been added to clearly recite the fact that the target of morphogen administration is a neuronal cell damaged by, or at risk of being damaged by, a neuropathy or by chemical or physical injury. The support for the amendment and the new claims can be found throughout the specification, for example at page 3, line 1 to page 6, line 5, describing neuropathies and chemical and physical injuries that damage neuronal cells; page 7, lines 3-7 describing the object of this invention; page 12, line 23 to page 13, line 21; page 14, line 16 to page 15, line 12.

Applicants believe the amended claims clearly are distinguished over claims of many of the patents cited by the examiners that do not pertain to neuronal cells that are damaged, or are at risk of being damaged, due to chemical or physical injury or due to a neuropathy. These claims are: claims 1-30 of US 5,674,844 pertaining to bone loss; claims 1-19 of US 5,849,686 pertaining to liver regeneration; claims 1-14 of US 6,333,312 pertaining to bone loss; claims 1-20 of US 5,972,884 pertaining to gastrointestinal ulcer; claims 1-24 of US 5,739,107 pertaining to gastrointestinal ulcer; claims 1-8 of US 6,399,569 pertaining to epithelial cells; claims 1-18 of US 5,656,593 pertaining to periodontal tissues; claims 1-29 of US 5,733,878 pertaining to periodontal tissues; claims 1-5 of US 6,531,445 pertaining to liver tissue; claims 1-8 of 6,288,031 pertaining to extravasation of effector cells; and claims 1-25 of US 6,281,195 pertaining to bone. Because the amended claims of the instant application relate to neuronal cells, and none of the claims cover neuronal cells nor make targeting such cells obvious, Applicants respectfully request that the Examiner withdraw the rejection on this ground with regarding these non-neuronal cell patent claims.

For those issued claims that the Examiner may still consider to cover inventions and render the current claims obvious, Applicants will consider filing terminal disclaimers once patentable subject matter is identified. These claims are: claims 1-18 of US 6,949,505 (dendrite outgrowth); claims 1-16 of US 6,800,603 (stimulation of neural adhesion molecules); claims 1 and 2 of US 6,495,513 (neurite extension); claims 1-8 of 6,936,582 (peripheral nerve growth promotion).

In view of the above amendment, Applicants believe the pending application is in condition for allowance. Accordingly, Applicants respectfully request that the claims be allowed, and await for a favorable determination.

Applicants believe no fee is due with this response. However, if a fee is due, please charge our Deposit Account No. 18-1945, under Order No. JJJ-P06-504 from which the undersigned is authorized to draw.

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Respectfully submitted,

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